

**STATEMENT OF JAMES C. MAY
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**BEFORE THE
HOMELAND SECURITY COMMITTEE
SUBCOMMITTEE ON ECONOMIC SECURITY, INFRASTRUCTURE PROTECTION,
AND CYBERSECURITY**

UNITED STATES HOUSE OF REPRESENTATIVES

JUNE 29, 2005

In November of 2001, the Air Transport Association pledged its support of appropriate government efforts to utilize passenger information and available government and public data to improve both the effectiveness and the efficiency of passenger pre-screening. As we said then, and have heard echoed repeatedly since, we believe that a security system premised on “looking at people and not things” is most likely to produce the results we all need. At that same time, we called for the establishment of voluntary traveler-identification program to further expedite security processing for those opting to participate. We remain convinced that both programs have significant potential in terms of further improving the level of security, maximizing the utility of Transportation Security Administration (TSA) resources and enhancing passenger convenience.

Now, however, almost four years later, while we remain committed to these goals, it is no secret that things have not progressed as far as any of us would have hoped. CAPPS II, Secure Flight, Known Traveler, Registered Traveler – the list of programs that never quite come to fruition goes on, as we keep circling the same issues. In our view, it is time as they say “to fish or cut bait.”

We are cautiously optimistic at TSA reports of real progress in the development of Secure Flight. We see Secure Flight as a very valuable addition – improving both the quality of security and the passenger experience. There remain, by universal acknowledgement, some very challenging implementation issues ahead but the picture right now holds promise. This can only be made to work, however – to come to a different end than its multiple predecessors – if there is real leadership from this committee, the Congress and the administration. We are committed to a successful Secure Flight program – but we must have the leadership commitment to get this done.

As to what it will take to make this work, let me provide you with a few thoughts on the challenges:

First, we need agreement on data collection – not just for Secure Flight, but across the spectrum of Department of Homeland Security (DHS) agencies, we need consistent, not duplicative or competing, requirements and it must be clear that all participants in the

reservation process share data-collection obligations, including travel agents and Global Distribution Systems;

Second, it must be clearly understood that this is a massive, very challenging undertaking and that sufficient time and resources must be available to bring a successful outcome; this includes a complete and cooperative analysis and implementation agreement treating an array of technological, operational, economic and policy questions that must be resolved by both government and industry before any final decisions are made. This cannot work with unreasonable timelines or mandates;

Third, whether we are dealing with names of interest under an eventual Secure Flight program, or the current Watch List system, action must be taken by the government to eliminate the unnecessary selection of passengers due to poorly maintained and poorly vetted lists. Names on any list should only be there with good and sufficient reason. Steps in this direction are currently underway, however, this process must be completed and institutionalized going forward; and

Finally, in order for Secure Flight to succeed, TSA must negotiate some extremely challenging privacy issues as it looks to developing information management as a tool against the threat of aviation terrorism: To assist the process, Congress should be clear as to precisely what privacy issues need to be addressed to fully protect legitimate passenger interests and yet still permit appropriate uses of data; on a related front, there must be a clear and effective resolution of international privacy concerns before implementation.

As I said, we are cautiously optimistic about the potential for Secure Flight and see it as a vast improvement over the current Watch List protocols – from a security perspective, from a service perspective and from a privacy perspective. In our judgment, it warrants real support.

Having said that, while we believe there could also be merit in a voluntary traveler identification program, we are not persuaded at this point of the merits of what has come to be called “Registered Traveler (RT).” The problem is fundamental – the TSA has never been able to provide a definition of program participation benefits. TSA remains ambivalent as to whether this should be a true security program or some type of passenger “perk.” In our judgment, to be successful, we need to know exactly what the program will provide participants, those benefits must be interoperably available at all airports and it must be a true security program. Until it is known exactly what is intended, with specificity, it is not possible to quantify the value of an RT program – or, as a result, get any real understanding of the appropriate size of any investment in its development. Without this information, RT is a non-starter and warrants no further attention until these fundamental questions are answered.

Finally, I would like to address the issues presented by the concept that has come to be known as APIS-60. For those not acquainted with this issue, it arises from a long-established legacy Customs and Immigration Advanced Passenger Information System program. Under that program, passenger passport data is batched and transmitted to the government within fifteen minutes of departure of U.S. – bound international flights, for vetting prior to arrival.

In the post-9/11 world, DHS and others have expressed strong interest in receiving this data – which would be cross-checked with various watch lists – sixty minutes prior to a flight's departure. Since we first learned of the government's interest in such a program in March of 2004, we have been engaged in extended discussions, testing and exploration of the issue with DHS and its Customs and Border Protection experts.

While in the interest of time, I will not detail the complexities of this issue, at an elementary level the problem is that the airlines typically do not have reliable passenger passport data until the passenger presents his or her documents at check-in. Uninformed or unrealistic demands for this information prior to departure could be exceptionally destructive.

While many international travelers do arrive two hours or more in advance of a flight, late-arriving passengers, particularly connecting passengers, may not present themselves until minutes before departure. As a result an APIS-60 requirement would significantly impact industry operations and economics on a global scale, either through massive schedule inefficiencies or, more likely, by “disconnecting” passengers on a wholesale basis.

Because of these functional realities we have looked for alternatives that will address both security and operational concerns. The most desirable approach, in our view, would be to develop a real-time, interactive, “go/no-go” process that would permit passport data to be swiped and transmitted, and an answer provided on the spot – not unlike approval of a credit-card transaction. The Australian government utilizes a process along these lines for pre-approving passengers traveling to Australia from anywhere in the world. While, without question, the scale of travel to and from the United States is orders of magnitude larger, and a U.S. system would be significantly more complex, we believe this real-time approach would be infinitely more practical than any alternative. Should that prove unworkable, however, we believe that other alternatives should be explored including “rolling” transmissions of APIS data as a flight builds to departure – leaving only a modest percentage of passengers for last-minute clearance or, conceivably, an earlier collection of APIS data. We recently advised Secretary Chertoff of our commitment to working with the department to develop a practicable solution and, we remain committed to this goal.

In conclusion, I would like to emphasize three critical points:

First, the airline industry's commitment to security is absolute – we fully recognize that the security and safety of our operations must be unquestionable; at the same time, we are committed to the protection of our customers' legitimate privacy interests.

Second, we recognize that, particularly with regard to security, Congress's recognition that aviation security is national security necessitates the government's integral involvement in our business. This in turn, necessitates our common reliance on strong professional leadership that understands the imperative for fully integrating security into the complex, but essential, provision of air transportation. Fortunately, with the leadership team in place at the Department of Homeland Security and the anticipated return of Mr. Hawley to direct TSA, we have the administration's leadership team uniquely well-positioned and;

Third and finally, we urge this committee, working with the full Congress and the administration, to push aggressively to streamline, simplify and consolidate the multiple, diverse – but heretofore uncoordinated – programs requiring collection of passenger information to facilitate one or another security goal. These programs must be harmonized in order to best leverage the available information and investment, and they may also warrant consideration of a review of Privacy Act restrictions to be certain they provide an appropriate framework for dealing with post-9/11 privacy and security issues.

Thank you for the opportunity to appear before you today. I will be happy to respond to questions.